

Office of Revisor of Statutes
300 S.W. 10th Avenue
Suite 24-E, Statehouse
Topeka, Kansas 66612-1592
Telephone (785) 296-2321 FAX (785) 296-6668

MEMORANDUM

To: House Committee on Pensions and Benefits
From: David Wiese, Assistant Revisor; Gordon Self, First Assistant Revisor
Date: January 23, 2013
RE: Summary of HB 2333, Kansas Public Employees Retirement System Act of 2015

Executive Summary:

Senate Sub for Sub HB 2333 establishes a new retirement plan within the Kansas Public Employees Retirement System beginning on January 1, 2015. **This new plan would include all new hires and newly elected legislators on and after January 1, 2015.** The plan consists of two accounts known as the annuity savings account and the retirement annuity account. The annuity savings account would contain the **6% mandatory employee contribution** and interest on those contributions and the retirement annuity account would contain employer credits and interest on those credits. **The employer credits would be based upon a member's years of service starting at 3% and increasing over time to a maximum of 6%. Interest rates are set by statute at 5.25% per annum.** The KPERS board, in its discretion, may also provide for an additional interest credit to the accounts, subject to certain statutory conditions. **Members are vested in their annuity savings account immediately and in their retirement annuity account after five years of service.** These two account balances are combined to determine the total cash balance account. At retirement, each account's balance is converted to an annuity in order to pay out a monthly retirement benefit. **Normal retirement age is either age 65 with five years of service or age 60 with 30 years of service. An early retirement option is included at age 55 with 10 years of service.**

The bill also makes several changes to the current KPERS plan. A Tier 1 member must now elect to either keep their employee contribution rate at the current **4% and receive a reduced 1.4% multiplier** for service on and after January 1, 2014, from the current 1.75% or the member may elect to increase their contribution rate up to **6% and receive a 1.85% multiplier** for service earned on and after January 1, 2014. **The bill eliminated the cost-of-living adjustment in Tier 2 of KPERS and increased the multiplier for Tier 2 members from 1.75% to 1.85%.**

The bill also included various other provisions related to the retirement system. The bill:

- Increases the statutory employer contribution cap for the state, school and local groups.
- Extends a sunset date for a working after retirement program for certain school professionals.
- Places a moratorium on employer death and disability contributions for 4Q of FY 12.
- Adjusts the rate of compensation for legislators for KPERS purposes.
- Allows for the cancelation of joint annuitants in cases of divorce.
- Requires fiscal notes when considering KPERS benefit increases.
- Authorizes a transfer of moneys from ELARF to KPERS unfunded liability.
- Allows for 80% of the proceeds from the sale of surplus state real estate to be applied to the KPERS unfunded liability.
- Appropriates moneys to KPERS in order to implement the provisions of the new retirement plan.

HOUSE PENSIONS & BENEFITS

Date: 1/23/13

Attachment #: 3

Detailed Summary:

New sections 1 through 18 constitute the new retirement plan.

New Section 1. (Title of act and application of act to members)

Names the act as the Kansas Public Employees Retirement System Act of 2015 and describes to whom the new act will apply. **This act applies to any individual who is first hired on or after January 1, 2015.**

This act does not apply member of the Kansas Police and Firemen's retirement system or to the retirement system for judges. The act also does not apply to "security officers" as provided in K.S.A. 74-4914a.

No member can simultaneously be a member of the pre-2015 plan and the plan established pursuant to this act.

The Board of Trustees of KPERS shall administer the provisions of this act in the same manner as the board administers the provisions of the current KPERS act.

New Sec. 2. (Definitions)

This section provides definitions for terms that are used in the KPERS Act of 2015.

"Normal retirement age" means the attainment of **age 65**, with completion of **five years of credited service**, or **60 with the completion of 30 years of credited service**.

New Sec. 3. (Establishment of plan by the KPERS Board)

This section directs the KPERS Board to establish a plan in accordance to the provisions of this act. The plan shall be a part of the pension plan pursuant to K.S.A. 74-4920, for the exclusive benefit of members and such member's beneficiaries and as a qualified governmental plan under the federal Internal Revenue Code.

Assets of the plan shall be held in trust for KPERS.

The board shall establish for each member of the plan both a retirement annuity account, which shall be credited with employer credits and interest credits on those employer credits as provided by section 8, and an annuity savings account, which shall be credited with employee contributions and interest credits under section 6.

New Sec. 4. (Powers and duties of the Board)

This section provides that the board has the powers and shall perform the duties regarding the plan as provided in K.S.A. 74-4909, and amendments thereto, as applicable. The board may exercise the powers and shall perform the duties provided in this act.

New Sec. 5. (Employee contributions to plan)

This section provides for a **mandatory employee contribution of 6%** of such employee's compensation into the annuity savings account of the member.

Members may not make voluntary contributions to the plan.

New Sec. 6. (Annuity savings account: interest credits; additional interest credits, conditions; vesting)

This section establishes the annuity savings account for members, which is the sum of the member's mandatory 6% contribution plus interest credits on those contributions, which shall be credited no less frequently than quarterly.

Interest credits are 5.25% per annum. The legislature may from time to time prospectively change the interest credits, and expressly reserves the right to do so.

The board, in its discretion, may provide for an additional interest credit, subject to the following conditions:

1. The additional interest credit may not exceed 4% per annum.
2. If the funding ratio of the system as a whole is equal to or more than 80%, the board shall provide an additional interest credit which may not exceed the lesser of 4% or a percentage of the rate of return on the system's assets that is above 8% for a fiscal year which such percentage is equal to the funding ratio of the system as a whole for each fiscal year.
3. The additional interest credit shall not be granted unless the rate of return on the system's assets is at least 10% for that fiscal year.
4. If the funding ratio of the system as a whole is less than 80%, the board shall consider the funding of the system, market conditions, investment returns and other related factors specified by the board.

Interest credits shall not be granted on the annuity savings account following the end of the second plan year following the member's termination of employment under the plan without vesting in the retirement annuity account as provided in section 12.

New Sec. 6. Continued

A member is vested in such member's annuity savings account from the date the employee becomes a member of the plan.

To be eligible for an additional interest credit, the member shall have an account balance at the time the interest credit is posted to the account.

New Sec. 7. (Employer pay credits based upon years of service)

The employer pay credits are a percentage of compensation credited to a member's retirement annuity account in a stair-stepped fashion based upon the member's years of service.

3%---less than five years of service

4%---at least five but less than 12 years of service

5%---at least 12 but less than 24 years of service

6%---24 or more years of service

The legislature expressly reserves the right to prospectively change the employer credits provided for in this section.

An employer shall contribute a percentage of compensation, determined by the board, to the death and long-term disability plan.

New Sec. 8. (Retirement annuity account: interest credits; additional interest credits)

This section establishes the interest credits for a member's retirement annuity account at **5.25% per annum.**

The board may, in its discretion, from time to time provide for an additional interest credit subject to the same conditions as described in section 6.

Interest credits shall not be granted on the member's non-vested retirement annuity account following the end of the second plan year following the member's termination of employment covered under the plan.

New Sec. 9. (Forfeiture of retirement annuity account)

If a member's retirement annuity account is not vested upon termination of plan membership, the member's service credit, employer credits and interest credits are forfeited as provided in section 12.

If the member's retirement annuity account is vested, but the member dies prior to attaining normal retirement age without an eligible spouse, under section 13, then the employer credits and interest credits are forfeited.

New Sec. 10. (Termination of plan membership and distribution of annuity savings account)

This section provides for termination of plan membership and distribution of the member's annuity savings account when the member is not vested and either terminates service or dies. The member or member's beneficiary may, by filing a written application with the board, take a distribution of the member's annuity savings account through any combination of the following payout options, each of which is subject to the Internal Revenue Code and its regulations:

1. A direct rollover to an eligible retirement plan; or
2. A lump-sum distribution.

The board by official action may specify minimum account balances for purposes of allowing benefit payment options and rollovers in accordance with federal law.

New Sec. 11. (Retirement benefit and surviving spouse benefit from annuity savings account)

This section provides for the distribution of a member's **annuity savings account** when such member is eligible for a benefit under section 13. The distribution shall be made using the mortality rates and interests rates provided in section 13, and may be made in any of the annuity options described in subsection (c) of section 13. In lieu of an annuity, a member may elect to receive a lump-sum of such member's annuity savings account of any fixed dollar amount or percent, but in no event may the lump-sum option exceed 30% of the total value of the member's annuity savings account and retirement annuity account.

A member who is not eligible for a benefit and terminates employment may elect to take a distribution of such member's entire annuity savings account balance, but shall then forfeit the entire balance in the member's retirement annuity account.

This section also provides for a surviving spouse benefit in the case of an active or inactive member:

1. Who is vested in the member's annuity savings account;

New Sec. 11. Continued

2. Who has five or more years of service at death; and
3. Who dies before attaining normal retirement age, with such member's spouse at the time of death designated as such member's sole primary beneficiary, the surviving spouse on and after the date the member would have attained normal retirement age, shall receive an annuity based upon such member's contributions and interest credits in the annuity savings account, using factors established by the board by official action as of the beneficiary's start date.

The form of the surviving spouse benefit shall be a single life annuity with 10-year certain.

New Sec. 12. (Vesting)

A member is vested in the member's retirement annuity account upon completion of **five years of service**. A member's benefit is nonforfeitable upon the attainment of normal retirement age and completion of at least five years of service, whichever is later.

If a member is not vested at termination of employment, has not withdrawn such member's annuity savings account and returns to active employment and membership within five years of the termination date, such member's prior years of service, employer credits and interest credits shall be restored upon such return to employment.

New Sec. 13. (Retirement benefit as annuity; interest rate; early retirement; default annuity option; surviving spouse benefit; *de minimis* account balance)

This section provides for the annuity provided to the member, once the member has attained normal retirement age, based upon the balance in such member's **retirement annuity account**, using mortality rates established by the board by official action as of the member's annuity start date and interest rates established by the Legislature as of the member's annuity start date. **The initial interest rate shall be 6%**. The Legislature may from time to time prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the Legislature expressly reserves the right to do so.

This section also provides that a member who has a vested interest in the member's retirement annuity account, and who terminates service **after age 55 with the completion of at least 10 years of service**, shall receive an annuity based upon employer credits and interest credits in such member's retirement annuity account, using mortality rates established by the board by official action as of the member's annuity start date and an interest rate established by the Legislature as of the member's annuity start date. **The initial interest rate shall be 6%**. The Legislature may from time to time

prospectively change the interest rate and the board may from time to time prospectively change the mortality rates, and the Legislature expressly reserves the right to do so.

The default benefit under this section shall be a single life annuity with 10-year certain. The member may elect any option described in K.S.A. 74-4918 except the partial lump-sum option, subject to actuarial factors established by the board. The benefit option may include a self-funded cost-of-living adjustment feature. In lieu of an annuity, a member may elect to receive a lump-sum of such member's annuity savings account of any fixed dollar amount or percent, but in no event may the lump-sum option exceed 30% of the total value of the member's annuity savings account and retirement annuity account.

This section provides for surviving spouse benefit for the retirement annuity account in the same manner as in section 11 for the annuity savings account. The form of benefit shall be a single life annuity with 10-year certain.

If a member's vested retirement annuity account is less than \$1,000 upon separation from service, or if the total of the member's vested retirement annuity account and annuity savings account balance is less than \$1,000, the account balances shall be mandatorily distributed to the member in accordance with the federal Internal Revenue Code. If the member does not elect to have such distribution paid directly to an eligible retirement plan in a direct rollover or to receive the distribution directly, then the default is that the board will pay the distribution to the member directly.

New Sec. 14. (Benefits subject to federal Internal Revenue Code)

All benefit payments under the plan are subject to the requirements imposed under federal Internal Revenue Code 401(a)(9).

New Sec. 15. (Death benefit)

A member's beneficiary shall be determined as provided in the current KPERS plan. Upon filing a written application with the board after the death of a member, the member's beneficiary is entitled to a **\$4,000 death benefit** as provided in K.S.A. 74-4989.

New Sec. 16. (Death and disability plan)

Members of the KPERS act of 2015 shall be covered in the death and disability plan in accordance with K.S.A. 74-4927, but subject to the requirements of this section.

If a member begins receiving a long-term disability benefit under the plan, such member shall be given participating service credit for the entire period of such disability. The member's annuity savings

account and retirement annuity account shall be credited with the amount of employee contributions and employer credits and interest credits for the entire period of disability. The salary upon which credits to the member's accounts are based shall be the employee's salary at the time of disability, which after five years shall be annually adjusted by the lesser of:

- (1) The percentage increase in consumer price index for all urban consumers as published by the U.S. department of labor minus 1%; or
- (2) 4% per annum.

All credits to the annuity savings account and the retirement account shall cease upon the earliest of:

- (1) Death;
- (2) Attainment of normal retirement age; or
- (3) The date the member is longer entitled to receive disability benefits pursuant to law or the terms of the plan as established by the board.

New Sec. 17. (Application of federal Internal Revenue Code)

The provisions of K.S.A. 74-49,122, 74-49,123 and 74-49,124 (applicability of federal Internal Revenue Code to the retirement system) shall apply to this act. However, the definitions of "actuarial equivalent" or "actuarial computation" shall not apply to this act.

New Sec. 18. (Electronic and written account statements)

All electronic and written account statements provided to members shall include:

1. The anticipated monthly benefit from the account based on a retirement age of 65;
2. The anticipated percentage of income replacement provided by the plan based upon a retirement age of 65; and
3. The hypothetical or notional account balance.

All electronic and written account statements provided to the members shall clearly state that additional personal savings in programs like an Internal Revenue Code section 403(b) plan or a 457 plan will likely be necessary to insure adequate retirement savings and to address cost of living increases.

The board shall develop and make available to members an electronic benefits estimate calculator for the plan established pursuant to this act.

Sec. 19 & Sec. 22. (Statutory employer contribution cap increase)

These sections increase the statutory employer contribution cap for the state, school and local groups. The current cap is 0.6% of the amount of contributions in the preceding fiscal year.

<i>Year</i>	<i>Cap Increase</i>
FY 2014	0.9%
FY 2015	1.0%
FY 2016	1.1%
FY 2017	1.2%

Sec. 20. (Tier 1 benefit multiplier)

This section deals with the multiplier by which KPERS tier 1 members' benefit is calculated. A member's multiplier is based upon the election of such member pursuant to section 24.

Sec. 21. (Tier 1 employee contribution rate)

This section provides for the employee contribution rate for Tier 1 members and the contribution rate will depend upon the option a Tier 1 member chooses to elect pursuant to section 24. Contribution rates will either be 4% if the member elected the lesser 1.4% multiplier or 5% in 2014 and then 6% in 2015 and beyond if the member elected to receive the higher 1.85% multiplier.

Sec. 23. (Tier 2 benefit multiplier)

This section states that for any Tier 2 member, who retires on or after January 1, 2014, the multiplier used to determine a Tier 2 member's retirement benefit shall be increased from 1.75% to 1.85%

New Sec. 24. (Tier 1 member election for employee contribution and multiplier)

This section establishes an election for Tier 1 member's multiplier and contribution rate for service accrued on and after January 1, 2014. The member must elect to either keep their contribution rate at the current 4% and receive a 1.4% multiplier for future service or increase their contribution rate to 5% for the year commencing January 1, 2014 and then increasing to 6% on January 1, 2015 and for all years thereafter and receiving a 1.85% multiplier. The default if no election is made, or if the IRS fails to grant approval, is the higher contribution rate and higher multiplier. Service credit earned by the member prior to January 1, 2014 remains at the 1.75% multiplier.

<i>Employee Contribution Rate</i>	<i>Multiplier</i>
4%	1.4%
OR	
5% for 2014; 6% for all years thereafter	1.85%

Sec. 25. (Working after retirement for certain school professionals)

This section extends through June 30, 2015, the exception from working after retirement limits for retired licensed school professionals returning to work for the employer from which they retired. The bill also extends through June 30, 2015, the special employer contribution rate paid on the compensation of all retired licensed school professionals returning to work.

Sec. 26. (Moratorium on employer death and disability contributions for 4Q of FY 12)

This section provided a moratorium on employer contributions to death and disability fund from April 1, 2012, through June 30, 2012.

Sec. 27. (Rate of compensation for members of the Legislature)

This section deals with the computation of KPERS benefits for legislators. This section was amended to recalculate legislators' compensation for the year based on the amount paid during the first 30 calendar days of the session, plus five additional days (total 365 days), instead of January 15 to February 15 (total 372 days).

Sec. 28. (Cancellation of joint annuitant in case of divorce)

This section permits retired members to cancel joint annuitant after retirement in the case of divorce if ordered by the district court of the county where the divorce action was filed. Such member receives maximum benefit for future benefit payments, but no refunds or interest on amounts already paid to fund joint annuitant benefits. No subsequent joint annuitant is permitted.

New Sec. 29. (Fiscal notes required when considering KPERS benefit increases)

This section requires fiscal notes to include an actuarial valuation, appraisal of liability, and required contributions by the system's actuary for bills providing new or increased benefits, including post-retirement benefit increases. Standing legislative committees considering the bill must have the fiscal note prior to taking action.

Sec. 30. (ELARF transfer to KPERS)

Effective FY 2014, 50% of Expanded Lottery Revenues funds remaining after deduction of first \$10.5 million is transferred to KPERS and applied to the State/School group unfunded actuarial liability, until such time as the system as whole attains an 80% funding ratio.

Sec. 31. (Sale of surplus real estate and proceeds to KPERS)

Sale of state surplus real estate and 80% of proceeds are to be applied to State/School unfunded actuarial liability.

New Sec. 32. (KPERS appropriation to implement the KPERS act of 2015)

Appropriation to KPERS to implement the provisions of the Kansas public employees retirement system act of 2015.

Sec. 33. (Repeal of Tier 2 COLA)

This is the repealer section of the bill. The annual cost-of-living adjustment for the KPERS Tier 2 plan provided in K.S.A. 74-49,205 was repealed.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

PAUL DAVIS
REPRESENTATIVE 46TH DISTRICT
1731 INDIANA
LAWRENCE, KANSAS 66044
(785) 749-1942



STATE CAPITOL, ROOM 359-W
TOPEKA, KANSAS 66612
paul.davis@house.ks.gov
(785) 296-7630

TOPEKA
HOUSE DEMOCRATIC LEADER

January 30, 2013

The Honorable Ray Merrick
Speaker of the Kansas House
State House 370-W
Topeka, KS 66612

Dear Speaker Merrick:

The following are my Joint Committee Assignments:

Joint Committee on Administrative Rules and Regulations: Pauls, Trimmer and Winn

Joint Committee on Corrections and Juvenile Justice Oversight: Henry, Ward and Finney

Joint Committee on State Building Construction: Grant and Dillmore

Joint Committee on Information Technology: Lane and Whipple

Joint Committee on Kansas Security: Frownfelter and Bridges

Joint Committee on Special Claims Against the State: Grant and Carlin

Joint Committee on State-Tribal Relations: Burroughs and Victors

Legislative Educational Planning Committee: Ballard and Winn

Legislative Post Audit: Burroughs and Trimmer

Respectfully,

A handwritten signature in black ink that reads "Paul Davis". The signature is written in a cursive, slightly stylized font.

Paul T. Davis

Cc: Senate President Susan Wagle
Senate Minority Leader Anthony Hensley
Chief Clerk of the House Susan Kannarr
Secretary of the Senate Diane Minear
Jeff Russell, Director, Legislative Services ✓
Mary Torrence, Revisor of Statutes
Raney Gilliland, Director of Legislative Research